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SESSION 1936

HOUSE OF COMMONS

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STANDING COMMITTEE

ON

PRIVILEGES AND ELECTIONS

MINUTES OF PROCEEDINGS

No. 1

TUESDAY, JUNE 9, 1936

TUESDAY, JUNE 16, 1936



OTTAWA

J. O. PATENAUDE, I.S.O.,

PRINTER TO THE KING'S MOST EXCELLENT MAJESTY

1936

MEMBERS OF THE COMMITTEE

Mr. E. R. E. CHEVRIER, *Chairman*

and

Messieurs

Anderson,	Lawson,
Beaubien,	MacInnis,
Bennett,	Mackenzie (<i>Vancouver Centre</i>),
Bertrand (<i>Laurier</i>),	McCuaig,
Bothwell,	McLarty,
Cahan,	McNiven (<i>Regina City</i>),
Campbell,	Massey,
Factor,	Pouliot,
Fleming,	Power,
Fournier (<i>Hull</i>),	Ryan,
Gariépy,	Sinclair,
Hall,	Slaght,
Kirk,	Thorson,
Kuhl,	Turgeon.

R. ARSENAULT,

Clerk of the Committee.

ORDERS OF REFERENCE

FRIDAY, February 21, 1936.

Resolved,—That the following Members do compose the Standing Committee on Privileges and Elections: Messieurs Anderson, Beaubien, Bennett, Bertrand (*Laurier*), Bothwell, Cahan, Campbell, Chevrier (*Ottawa East*), Duff, Factor, Fleming, Fournier (*Hull*), Gariépy, Hall, Kuhl, Lawson, MacInnis, Mackenzie (*Vancouver Centre*), McQuaig, McLarty, McNiven (*Regina City*), Massey, Pouliot, Power, Ryan, Sinclair, Slaght, Thorson, Turgeon—29. (Quorum 10.)

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

Ordered,—That the Standing Committee on Privileges and Elections be empowered to examine and inquire into all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon, with power to send for persons, papers and records.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

MONDAY, March 23, 1936.

Ordered,—That the Standing Committee on Privileges and Elections be instructed to inquire into, study and report on, the usages, customs and practices respecting the status of the Speaker of the House of Commons during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new Parliament, and in particular the rights, prerogatives, privileges, jurisdiction and duties ordinarily and customarily exercised by the Speaker under such circumstances in previous years in Canada;

And, also, the status of Clerks, Officers, Messengers or other persons attendant on the House of Commons, distinguishing between such persons as are *permanent* officers and such as are *temporary* and those whose duties are of a *seasonal* character;

And the right and proper procedure to be adopted with respect to the retention or dismissal of any such employees;

And that the Committee have power to print such papers and evidence from day to day, as may be ordered by the Committee for the use of the Committee and members of the House.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

TUESDAY, May 5, 1936.

Ordered,—That the name of Mr. Kirk be substituted for that of Mr. Duff on the said Committee.

Attest.

ARTHUR BEAUCHESNE,
Clerk of the House.

MINUTES OF PROCEEDINGS

TUESDAY, June 9, 1936.

The Standing Committee on Privileges and Elections met at 11 a.m., the Chairman, Mr. Chevrier (*Ottawa East*), presiding.

Members present: Messrs. Beaubien, Bothwell, Cahan, Factor, Mackenzie (*Vancouver Centre*), McCuaig, McNiven, Ryan, Thorson, and Turgeon.

In attendance, Dr. Arthur Beauchesne, C.M.G., K.C., Clerk of the House of Commons.

The Clerk read the Order of Reference.

On motion of Mr. Ryan,

Resolved,—That a subcommittee of five be appointed by the Chairman, to prepare an agenda, and report to the Committee on Tuesday, June 16.

The following members were then selected by the Chairman, to constitute the said subcommittee, viz: Messrs. Beaubien, Factor, Ryan, Lawson, and Hall.

Dealing with the scope of the Reference, the Chairman expressed the following views:—

1. That by the terms of this reference, the Committee is limited to the study of the right of the Speaker to appoint or dismiss employees, and not the effects of the exercise of such right.

2. That the status of clerks, officers, messengers or other persons attendant on the House of Commons, should be apparent from the statute creating such status, and that it should not be difficult for the Committee to determine who are permanent and who are not.

3. That it should also be an easy matter for the Committee to determine "the right and proper procedure to be followed in the future with respect to the retention or dismissal of employees" referred to in the Order of Reference.

After a brief discussion, the Chairman ruled that under the terms of the reference, the Committee had no power to inquire into the merits or demerits of all or any appointment or dismissal which may have been made by the present or previous speakers of the House of Commons.

On motion of Mr. Cahan, the Committee adjourned.

R. ARSENAULT,

Clerk of the Committee.

TUESDAY, June 16, 1936.

The Standing Committee on Privileges and Elections met at 11 a.m., the Chairman, Mr. Chevrier (*Ottawa East*), presiding.

Members present: Messrs. Beaubien, Bothwell, Cahan, Campbell, Factor, Gariépy, Lawson, Mackenzie (*Vancouver Centre*), McLarty, Ryan, and Turgeon.

The Clerk read the minutes of the previous meeting.

After discussion on the Chairman's ruling as recorded in the minutes, Mr. Campbell moved that the minutes be adopted. Motion carried on division.

On behalf of the Subcommittee appointed to prepare an agenda, Mr. Factor submitted the following report:—

The Subcommittee appointed to prepare an agenda, recommends:—

1. That an official of the Justice Department be requested to attend at the next sitting of this Committee to tender in evidence such laws or statutes as presently govern the status of the Speaker of the House of Commons and in particular the rights, prerogatives, privileges, jurisdictions and duties exercised by the Speaker, during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new Parliament, more particularly with reference to the following circumstances,—
 - (a) the Speaker being defeated and the Government being elected,
 - (b) the Speaker being elected and the Government defeated,
 - (c) the Speaker being defeated and the Government being defeated.
2. That Arthur Beauchesne, K.C., LL.D., Clerk of the House, be requested to attend the sittings of the Committee and testify concerning the status of Clerks, Officers, Messengers or other persons attendant on the House of Commons, distinguishing between such persons as are,—
 - (a) permanent officers,
 - (b) temporary officers,
 - (c) those whose duties are of a sessional character.

All of which is respectfully submitted.

(Sgd.) S. FACTOR.

On motion of Mr. Lawson,

Resolved,—That the report be amended by adding the name of Major M. F. Gregg, Sergeant-at-Arms, to the list of witnesses suggested by the Subcommittee.

On motion of Mr. Bothwell,

Resolved,—That the report of the Subcommittee, as amended, be adopted.

On motion of Mr. Cahan,

Ordered,—That 500 copies in English and 200 copies in French of the Committee's Minutes of Proceedings and Evidence be printed.

On motion of Mr. Turgeon, the Committee adjourned until Thursday, June 18th, at 11 a.m.

R. ARSENAULT,

Clerk of the Committee.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 231,

June 9, 1936.

The Standing Committee on Privileges and Elections instructed to inquire into the status of the Speaker of the House of Commons between dissolution and a new parliament and matters relating to the staff of the House of Commons, met at 11 o'clock, Mr. E. R. E. Chevrier the chairman presided.

The CHAIRMAN: Gentlemen, we will call the meeting to order. I thank you very sincerely for the great honour you have done me in asking me to preside over this very important committee, and I trust that our work will be done expeditiously, and will be fruitful. I will ask the clerk to read the order of reference.

(Clerk reads):—

Ordered,—That the standing committee on Privileges and Elections be instructed to inquire into, study and report on, the usages, customs and practices respecting the status of the speaker of the House of Commons during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new parliament, and in particular the rights, prerogatives, privileges, jurisdiction and duties ordinarily and customarily exercised by the speaker under such circumstances in previous years in Canada;

And, also, the status of clerks, officers, messengers or other persons attendant on the House of Commons, distinguishing between such persons as are *permanent* officers and such as are *temporary* and those whose duties are of a *sessional* character;

And the right and proper procedure to be adopted with respect to the retention or dismissal of any such employees;

And that the committee have power to print such papers and evidence from day to day, as may be ordered by the committee for the use of the committee and members of the house.

Attest.

ARTHUR BEAUCHESNE,

Clerk of the House.

Mr. RYAN: Mr. Chairman, you said in opening that you trusted the committee would act in an expeditious way, and I think we are more or less in agreement with that. I do not know in what better way that can be accomplished than by the appointment of a sub-committee of five to prepare an agenda for this committee, and I would make a motion that that sub-committee be appointed by the chair and report back to the general committee, say, next Tuesday, if that meets with the approval of the committee.

Mr. McNIVEN: I have much pleasure in seconding that.

(Carried).

The CHAIRMAN: I suggest that the committee be composed of Messrs. Beaubien, Factor, Ryan, Lawson and Hall.

The CHAIRMAN: Now, as to the scope and jurisdiction of this committee: by the order of reference we are instructed:—

To inquire into, study and report on the usages, customs, and practices respecting the status of the speaker of the House of Commons during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new parliament, and in particular the rights, prerogatives, privileges and jurisdiction and duties ordinarily and customarily exercised by the speaker under the circumstances in previous years in Canada.

In other words, had the speaker, in previous years, in Canada during that period the right *inter alia* to appoint and/or to dismiss employees? But by those very terms we are limited to the study of the very right, *qua* right, and not the effects of the exercise of the right. The order of reference continues to provide in the terms following:—

And also the status of clerks, officers, messengers or other persons attendant on the House of Commons, distinguishing between such persons as are permanent officers.

That I should think should be apparent from the statute creating such status, and it may not be for us to construe the statute; it speaks for itself.

Then last, is the following direction, very helpful to construe the whole order:—

and the right and proper procedure to be adopted with respect to the retention or dismissal of such employees.

This is the only place where the word “dismissal” appears in the order of reference: “Dismissals as to the future;” and it refers but to the procedure in case of retention or of dismissal.

I suggest that we should dispose of the matters referred to us in all speed and diligence, giving to them, however, all the serious consideration to which they are entitled and which is expected of us, but that we should not lose sight of the fact that many members of this large committee are also members of other very important committees, and that many members of this committee are decidedly anxious to participate in the most important measures which presently are requiring and for some time yet will continue to require the attention of the house.

I suggest that the public is not much desirous that we waste its time and money in an effort to determine which of the two political parties is the lesser or the greater sinner in the matter of dismissals. We might as well admit that in the past and following an accepted custom speakers of an incoming administration have, rightly or wrongly, dismissed many appointees of the former administration, and have replaced them by adherents of their own political faith. Had speakers power to do that?

It should be easy to determine who are permanent employees and who are not, within the meaning of the statute. I presume that all will agree that, as in the past, they should not be disturbed except for cause and after having been heard in the manner prescribed by the statute.

It should also be an easy matter to determine “the right and proper procedure to be adopted with respect to the retention or dismissal of any such employee” in the future. With the exercise of due diligence and good will our investigations and deliberations should not consume a great length of time.

That expresses my view concerning the purview and jurisdiction of this committee: that we may inquire into everything, as I have said; but we have not got the right to inquire into the merits or demerits of all or any of the dismissals that have been made.

Hon. Mr. CAHAN: That is so restricted in its application that I think we might just as well move the adoption of the chairman's report and report to the house accordingly, and then move to adjourn the proceedings; because there is very little left for this committee to enquire into.

Hon. Mr. MACKENZIE: We could assist the speaker in the future. This committee might make some very constructive suggestions for the actions of the speaker in the future.

Hon. Mr. CAHAN: I do not know that even that is included within the purview.

Mr. TURGEON: We have appointed a subcommittee.

Hon. Mr. CAHAN: The reference is not very large.

The CHAIRMAN: That is my interpretation of it.

Mr. TURGEON: The subcommittee will have the chairman's interpretation of the reference before it.

The CHAIRMAN: In order to simplify matters so that the subcommittee may be guided accordingly, if you like I will rule now that under the terms of the reference as read by the clerk and by which we are instructed, that we have not got the power to investigate into the merits or demerits of all or of any appointment or dismissal which may have been made by the present or previous speakers, and I will not allow any evidence to be submitted as to the merits or demerits of any case of appointment or dismissal.

Mr. BEAUBIEN: That is the scope of the order of reference.

The CHAIRMAN: In my opinion, that is the scope of the reference; and if the subcommittee finds that that is not so, and if they want to recommend to the house that the order of reference be made so precise in its terms as to cover that, they can move accordingly.

Hon. Mr. CAHAN: It is very expedient that the chairman should give his ruling at once, because, undoubtedly, he will be supported by the committee, and it will save a great deal of time and discussion.

The CHAIRMAN: I believe in expeditious manners.

Hon. Mr. CAHAN: I move that the committee adjourn.

The committee adjourned to the call of the chair.

MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 231,

June 16, 1936.

The Standing Committee on Privileges and Elections instructed to inquire into the status of the Speaker of the House of Commons between dissolution and a new parliament and matters relating to the staff of the House of Commons, met at 11 o'clock, Mr. E. R. E. Chevrier the chairman presided.

The CHAIRMAN: Order, gentlemen. The clerk will read the minutes.

(Minutes read by the clerk.)

The CHAIRMAN: What is your pleasure?

Hon. Mr. LAWSON: I did not have the advantage of being present at the last meeting, Mr. Chairman; would you mind having the clerk read the last paragraph in which the chairman gives his ruling?

(Clerk reads):—

After a brief discussion, the chairman ruled that under the terms of of the reference, the committee had no power to inquire into the merits or demerits of all or any appointment or dismissal which may have been made by the present or previous speakers of the House of Commons.

Hon. Mr. LAWSON: With all due respect, that ruling would seem to be directly contrary to the order of reference. The last part of the order of reference says that we are to enquire “. . . in particular the rights, prerogatives, jurisdiction and duties ordinarily and customarily exercised by the speaker under such circumstances in previous years in Canada. . . .”

I have no desire to enter upon an inquisitorial investigation as to what may have happened at any particular time, but that ruling seems to be directly contrary to the last clause of the reference; otherwise, the words “in previous years in Canada” in the reference are given no effect whatever.

Mr. FACTOR: As I interpret the ruling the reference is a guide for the future, rather than going into the facts of every dismissal.

Hon. Mr. LAWSON: I am not dealing with the interpretation of the ruling, but with the reference from the House of Commons.

Mr. FACTOR: I meant the reference.

Hon. Mr. LAWSON: I am sorry. You said the ruling.

The CHAIRMAN: Does anybody else desire to say anything about the point or order, or question the ruling?

Mr. BEAUBIEN: I think the order of reference definitely says “the rights”. Now, what right has the speaker to dismiss or to hire? What is his jurisdiction? I think that is what we are supposed to find.

Hon. Mr. LAWSON: “. . . customarily exercised by the speaker under such circumstances in previous years in Canada.”

Mr. BEAUBIEN: All we want to find out is his jurisdiction and his rights.

Hon. Mr. LAWSON: That is not what the reference says.

The CHAIRMAN: I have ruled that: “In other words, had the speaker in previous years in Canada during that period—that is in the inter-session,—“the right inter alia to appoint or to dismiss employees? But by those very terms we are limited to the study of the very, qua right, and not the effects of the exercise of the right.” That is my ruling.

Mr. CAMPBELL: I move the adoption of the minutes.

Mr. McLARTY: It is not a matter of how the speaker has actually acted in previous years, but what his rights were in respect to such action.

The CHAIRMAN: Quite so. You have heard the minutes; do you want to challenge the minutes or the ruling?

Mr. BOTHWELL: There is a motion that the minutes be adopted, and I second it.

The CHAIRMAN: Carried.

Hon. Mr. LAWSON: On division, Mr. Chairman.

The CHAIRMAN: A sub-committee was appointed at the last meeting for the purpose of submitting an agenda. Have you met, gentlemen?

Mr. FACTOR: (Reads report of sub-committee.)

The sub-committee appointed to prepare an agenda, recommends:—

1. That an official of the Justice Department be requested to attend at the next sitting of this committee to tender in evidence such laws or statutes as presently govern the status of the speaker of the House of Commons and in particular the rights, prerogatives, privileges, jurisdictions and duties exercised by the speaker, during the period of time which may elapse between any dissolution of the House of Commons and the assembly of a new parliament, more particularly with reference to the following circumstances.

- (a) the Speaker being defeated and the government being elected.
- (b) the Speaker being elected and the government defeated.
- (c) the Speaker being defeated and the government being defeated.

2. That Arthur Beauchesne, K.C., LL.D., clerk of the house, be requested to attend the sittings of the committee and testify concerning the status of clerks, officers, messengers or other persons attendant in the House of Commons, distinguishing between such persons as are,—

- (a) permanent officers,
- (b) temporary officers,
- (c) those whose duties are of a sessional character.

All of which is respectfully submitted.

(Sgd.) S. FACTOR.

The subcommittee unanimously agreed to this agenda.

Hon. Mr. LAWSON: Subsequent to the meeting of the committee, and after glancing at the rules, it occurred to me that we should have asked for one other gentleman—the subcommittee should have recommended to this committee that one other gentleman be called. I notice under the rules that certain of the employees of the House of Commons come under the Sergeant-at-Arms, and he appoints with the approbation of the speaker; and I would recommend that the subcommittee's report be amended so as to include the Sergeant-at-Arms as well as Dr. Beauchesne. I move that in amendment.

Mr. FACTOR: The Sergeant-at-Arms will make three. That the Sergeant-at-Arms be requested to attend and testify.

The CHAIRMAN: Now, gentlemen, you have heard the reading of the report, will we adopt it as amended?

(Moved by Mr. Bothwell that the report of the subcommittee as amended be adopted.)

The CHAIRMAN: Now, then, there is nothing else before the chair at the moment. When does the committee want to meet again to hear these gentlemen?

Hon. Mr. LAWSON: Are they not here this morning? Is none here?

The CHAIRMAN: No. There has not been sufficient time to get the officials of the Justice Department.

Hon. Mr. MACKENZIE: If we are adjourning on Saturday we had better hurry up.

The CHAIRMAN: It is necessary to give sufficient time to the officers of the Justice Department to prepare their statement. I could not summon them without knowing whether the committee was willing to proceed along that line. There is nothing else for us to do now. Will the committee say when they want these gentlemen summoned to appear?

Mr. BEAUBIEN: Have you any idea when they can be ready?

The CHAIRMAN: We will have to give them a few days.

Hon. Mr. MACKENZIE: They could be ready by Thursday. It is not a very difficult matter. It is only the study of a statute.

Hon. Mr. CAHAN: I think it will require two or three days for deliberation on precedents.

The CHAIRMAN: I do not think it would be fair to ask them to come here on too short notice.

Mr. BEAUBIEN: Why not leave the matter in the hands of the chair. He will call them as soon as he is able to get the officials from the Justice Department.

Mr. McLARTY: Possibly Thursday.

Mr. RYAN: I wonder if there will be morning sittings in the house, and whether it will be necessary to ask the house for permission to sit while the house is sitting?

The CHAIRMAN: My difficulty with this committee has been that it is a large committee, and without flattery, it is one of the most important committees considering the names of the distinguished gentlemen who are members of it. Apart from that, a number of our members have been chairmen of other very important committees—

Hon. Mr. LAWSON: Now I know why you were selected as chairman.

The CHAIRMAN: —but my modesty would not allow me to say so. However, that has been the difficulty in getting this committee together before, and it is a continuing difficulty.

Mr. FACTOR: I think we should allow you to call the meeting as soon as you can.

The CHAIRMAN: Suppose I endeavoured to get them for Thursday; do you want me to get them for Thursday?

Hon. Mr. MACKENZIE: Do the best you can.

Mr. BEAUBIEN: There is a caucus to-morrow morning.

The CHAIRMAN: Let us call the committee for Thursday.

Mr. BEAUBIEN: It is essential that we make a report this session.

Hon. Mr. CAHAN: I think we might have your opinion as chairman printed.

The CHAIRMAN: I thank you for the honour, Mr. Cahan.

Hon. Mr. CAHAN: No; but it is important, and it goes to the root of the matter.

The CHAIRMAN: Quite right. Will somebody move that the minutes of evidence be printed. I am advised by the clerk that it is usual to print 500 copies of the evidence.

Mr. CAMPBELL: 500 copies in English and 200 in French.

Mr. RYAN: Once the matter is set up it is just as cheap to print that number.

Moved by Mr. Cahan, seconded by Mr. Ryan that 500 copies in English and 200 in French of the evidence be printed.

The committee adjourned to meet Thursday, June 18th, at 11 o'clock.

